

ENGROSSED HOUSE
BILL NO. 2370

By: Gray of the House

and

Henry of the Senate

An Act relating to workers' compensation; amending 36 O.S. 2001, Section 924.2, which relates to rating plans; amending 40 O.S. 2001, Sections 417 and 418.2, which relate to employers' annual report and Worker Safety Policy Council; amending 73 O.S. 2001, Section 154, which relates to sale of bonds; amending 74 O.S. 2001, Section 85.29, which relates to the amounts of surety required for certain state officers; amending 85 O.S. 2001, Sections 131, 131a, 131b, 132, 133, 134, 135, 135.1, 136, 137, 138, 139, 141, 147 and 148, which relate to administration of CompSource Oklahoma; renaming managing executive of CompSource Oklahoma; clarifying references and making language gender neutral; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2001, Section 924.2, is amended to read as follows:

Section 924.2 A. Any rate, schedule of rates or rating plan for workers' compensation insurance submitted to or filed with the State Board for Property and Casualty Rates, or fixed by the Board of Managers of ~~the State Insurance Fund~~ CompSource Oklahoma, and premiums, by whatever name, for workers' compensation for self-insureds except for group self-insured associations shall provide for an appropriate reduction in premium charges, by whatever name, for those eligible insured employers who have successfully participated in the occupational safety and health consultation, education and training program administered by the Commissioner of the Department of Labor pursuant to Section 414 of Title 40 of the Oklahoma Statutes.

B. All insurance companies writing workers' compensation insurance in this state, including ~~the State Insurance Fund~~ CompSource Oklahoma, and all self-insureds providing workers' compensation insurance except for group self-insured associations, shall allow an appropriate reduction in premium charges to all eligible employers who qualify for the reduction pursuant to the provisions of this section.

C. Eligible employers shall be those employers:

1. Who are insured by an insurance company writing workers' compensation insurance in this state;
2. Who are self-insured; or
3. Who are insured by ~~the State Insurance Fund~~ CompSource Oklahoma.

D. In order to qualify for the reduction in workers' compensation insurance premium, an employer shall successfully participate annually in the occupational safety and health consultation, education and training program administered by the Department of Labor. Successful participation shall be defined as:

1. Undergoing a safety and health hazard survey of the workplace, including an evaluation of the employer's safety and health program and onsite interviews with employees by the Department's consultant;
2. Correcting all hazards identified during the onsite visit within a reasonable period of time as established by the Department;
3. Establishing an effective workplace safety and health program and implementing program provisions within a reasonable period of time as established by the Department. The program shall include:
 - a. demonstration of management commitment to worker safety and health,
 - b. procedures for identifying and controlling workplace hazards,

- c. development and communication of safety plans, rules and work procedures, and
- d. training for supervisors and employees in safe and healthful work practices;

4. Reducing by one-third (1/3) or more the extent to which the lost workday case rate, as measured by the Department of Labor, was above the national average for the industry at the time the employer elected to participate in the occupational safety and health consultation, education and training program, or maintaining a rate at or below the national average for the industry; and

5. Documenting a reduction in workers' compensation claims for the preceding year by showing one of the following:

- a. a ten percent (10%) reduction in the dollar amount of claims,
- b. a ten percent (10%) reduction in the severity of claims, or
- c. no reported claims,

as a result of attending the occupational safety and health consultation, education and training program administered by the Department of Labor.

E. 1. Upon successful participation in the occupational safety and health consultation, education and training program as defined in subsection D of this section, an employer shall be issued a certificate by the Commissioner of the Department of Labor which shall be the basis of qualification for the reduction in workers' compensation insurance premium, by whatever name. The certificate shall qualify the employer for a premium reduction for a one-year period.

2. Upon issuance of a certificate to an employer, the Commissioner of the Department of Labor shall mail a copy of the certificate to the employer's insurer. Any insurer required by this section to allow an appropriate reduction in premium charges to a

qualified employer which willfully fails to allow such reduction after receiving a copy of the certificate shall be subject, after notice and hearing, to an administrative fine, imposed by the Insurance Commissioner, which shall be not less than Ten Thousand Dollars (\$10,000.00) or three times the amount of the premium reduction, whichever is greater. The Insurance Commissioner shall promulgate rules necessary to carry out the provisions of this paragraph.

F. The Insurance Commissioner, the Administrator of the Workers' Compensation Court and the ~~State Insurance Fund Commissioner~~ CompSource Oklahoma President and Chief Executive Officer shall maintain records documenting reductions in workers' compensation insurance premiums granted pursuant to this section and shall make an annual report of such reductions to the President Pro Tempore of the Senate and the Speaker of the House of Representatives by May 1 of each year. Insurers shall report such premium reductions in their annual statement.

G. ~~The State Insurance Fund~~ CompSource Oklahoma shall instruct its actuary to continually review the insurance premium credit program, developed and implemented pursuant to Section 142a of Title 85 of the Oklahoma Statutes, to determine if the program is detrimental to the financial stability of ~~the Fund~~ CompSource Oklahoma. If the actuary determines that the program contributes detrimentally to the financial stability of ~~the Fund~~ CompSource Oklahoma, the actuary shall immediately recommend to the ~~State Insurance Fund Commissioner~~ CompSource Oklahoma President and Chief Executive Officer that the safety premium reduction cease for a one-year period.

SECTION 2. AMENDATORY 40 O.S. 2001, Section 417, is amended to read as follows:

Section 417. (1) To assure the availability of accurate, timely statistical data concerning occupational health and safety in

Oklahoma, all employers as defined in Section 402 of this title shall submit reports, on a form and in a manner prescribed by the Commissioner of Labor. Reports shall include only those injuries arising from employment within the State of Oklahoma.

(2) The Department may exempt from this requirement those classes of employers for whose operations adequate records of safety experience are already available or the Department may exempt any employer from this requirement when, in the judgment of the Commissioner, the submission of annual reports by such employer is not necessary to carry out the purposes of this act and would be an undue burden upon such employer because of size, the nature of its operation or other special circumstances.

(3) The Department shall publish each year a detailed summary of the statistical data received from employers. A copy of such summary shall be available on request to each reporting establishment required to file reports of disabling work injuries and shall be made available to anyone having a legitimate interest in the subject matter of the report.

(4) Upon publication of the annual summary, the Commissioner of Labor shall provide to the ~~State Insurance Fund Commissioner~~ CompSource Oklahoma President and Chief Executive Officer, upon request, the reports of each employer subject to the provisions of this section, and any derivation, tables or analysis generated by the Department of Labor in the preparation of such summary.

SECTION 3. AMENDATORY 40 O.S. 2001, Section 418.2, is amended to read as follows:

Section 418.2 A. There is hereby created the Worker Safety Policy Council to study and formulate reforms for worker safety that could result in lower work-related injuries and result in lower workers' compensation costs for business.

B. The Worker Safety Policy Council shall be comprised of eighteen (18) members as follows:

1. The Commissioner of Labor or his or her designee, who shall act as chairman for the Council;

2. The Administrator of the Workers' Compensation Court or his or her designee;

3. The ~~Commissioner of the State Insurance Fund~~ CompSource Oklahoma President and Chief Executive Officer or his or her designee;

4. The Insurance Commissioner or his or her designee;

5. The Director of the Department of Commerce or his or her designee;

6. A representative from the Oklahoma Safety Council who shall be appointed by the Commissioner of Labor and shall serve at the pleasure of the Commissioner;

7. A representative from an American society or organization of safety engineers who shall be appointed by the Commissioner of Labor and shall serve at the pleasure of the Commissioner;

8. A representative from an American industrial hygiene association who shall be appointed by the Commissioner of Labor and shall serve at the pleasure of the Commissioner;

9. A representative from an Oklahoma labor union who shall be appointed by the Commissioner of Labor and shall serve at the pleasure of the Commissioner;

10. A representative from the Oklahoma State Chamber of Commerce and Industry who shall be appointed by the Commissioner of Labor and shall serve at the pleasure of the Commissioner;

11. A representative from an organization of the private sector who shall be appointed by the Commissioner of Labor and shall serve at the pleasure of the Commissioner;

12. A representative from an organization of public employees who shall be appointed by the Commissioner of Labor and shall serve at the pleasure of the Commissioner;

13. A representative from the Oklahoma Municipal League who shall be appointed by the Commissioner of Labor and shall serve at the pleasure of the Commissioner;

14. A representative of the public schools who shall be appointed by the Commissioner of Labor and shall serve at the pleasure of the Commissioner; and

15. Four members of the Legislature of which two shall be members of the Senate who shall be appointed by the President Pro Tempore of the Senate and two shall be members of the House of Representatives who shall be appointed by the Speaker of the House of Representatives.

C. Vacancies on the Council shall be filled by the Commissioner of Labor, except that legislative vacancies shall be filled in the same manner as the original appointment. A simple majority of the Council shall constitute a quorum.

D. The Department of Labor shall provide such office supplies and personnel as may be necessary to assist the Council.

E. Members of the Council shall receive no compensation for serving on the Council, but shall be reimbursed by the Department of Labor for their necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

F. The Council shall hold at least quarterly meetings each calendar year at a place and time to be fixed by the Council. The Council shall make annual recommendations for legislative and policy changes to public and private employers to reduce worker injuries and the resulting costs associated with those injuries. Commencing September 1, 1994, and annually thereafter, the Council shall submit a report of its recommendations to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

SECTION 4. AMENDATORY 73 O.S. 2001, Section 154, is amended to read as follows:

Section 154. (a) The State Treasurer of the State of Oklahoma is hereby authorized and required to purchase from the Authority at private sale all or any part of said bonds, or interim bonds, as an investment of the public monies in his possession. It shall be the responsibility of the State Treasurer to invest only that portion of such public monies as it deems to be more than sufficient to meet current expenditures payable from public monies. The State Treasurer is authorized and required to buy, and the Authority is authorized and required to sell to the State Treasurer at private sale, as provided in this section, so many of the bonds authorized by this act as may be safely purchased for investment of public monies by the State Treasurer without handicapping the State of Oklahoma in promptly meeting its obligations. In event of such sale or sales, the Authority shall determine and fix the rate of interest the bonds so sold shall bear, such rate of interest not to exceed the maximum hereinbefore authorized. All interest earned by such bonds as are held by the State Treasurer pursuant to such investment shall, as collected, be paid into the Oklahoma Capitol Improvement Authority Fund.

(b) In the event any or all of the bonds are sold to the State Treasurer under the provisions of subsection (a) hereof and thereafter the uninvested cash on hand and in solvent banks should fall short of demand orders on the State Treasury, it shall be the duty of the State Treasury to sell such part or all of the bonds as are necessary to be converted into cash to meet such demands. The State Treasurer may sell such part or all of the said bonds as he is so authorized to sell, at private sale, to ~~the State Insurance Fund~~ CompSource Oklahoma, the Teachers Retirement Fund, or any other state fund, department or agency which has available monies to purchase the same, and all such state funds, departments and

agencies are hereby authorized and empowered to so purchase such bonds.

(c) If such bonds or any of them cannot be sold to such other state funds, departments and agencies, it shall be the duty of the State Treasurer to publish, advertise and, on the date given in the notice, sell at not less than par and accrued interest, to the highest and best bidder for cash, only so many of the bonds as will enable the state to meet such demand orders; provided, however, in lieu of so selling such bonds at the market, the State Treasurer and the Authority may agree to the refunding of part or all of such bonds, in accordance with the method and procedure for refunding provided in this act.

(d) The ~~State Insurance Fund Commissioner~~ CompSource Oklahoma President and Chief Executive Officer with the approval of the Board of Managers of ~~the State Insurance Fund~~ CompSource Oklahoma and the State Board of Trustees of the Teachers Retirement Fund are also authorized to purchase all or any part of said bonds at private sale as an investment of such funds. In event of such sale or sales, the Authority shall determine and fix the rate of interest not to exceed the maximum hereinbefore authorized.

SECTION 5. AMENDATORY 74 O.S. 2001, Section 85.29, is amended to read as follows:

Section 85.29 The amount of surety required for each state officer or employee pursuant to Sections 85.26 through 85.31 of this title is as follows:

DEPARTMENT	AMOUNT OF BOND
Office of the State Treasurer	\$300,000.00
Office of Public Affairs	100,000.00
Insurance Commission	100,000.00
Office of the State Auditor and Inspector	50,000.00
Office of State Finance	50,000.00
Bank Commissioner	50,000.00

~~State Insurance Fund Commissioner~~

CompSource Oklahoma President and

<u>Chief Executive Officer</u>	50,000.00
Commissioners of the Land Office	50,000.00
Oklahoma Securities Commission	50,000.00
Oklahoma Tax Commission	50,000.00
Department of Human Services	50,000.00
Oklahoma Public Employees Retirement System	50,000.00
Oklahoma Corporation Commission	50,000.00
State Board of Education	50,000.00
Finance Division	150,000.00
All Others	25,000.00
Department of Transportation	25,000.00
Boards of Regents of Oklahoma	
Universities and Colleges	50,000.00
Office of Attorney General	10,000.00
The University Hospitals	50,000.00
All Other State Departments, Agencies, Institutions, Commissions, Authorities, and other bodies of state government	10,000.00

Provided, however, that nothing in the Oklahoma Central Purchasing Act shall prohibit any head of a department, institution, agency, commission, authority or other body of state government from requiring the Central Purchasing Division to purchase increased amounts of blanket bond coverage for his employees up to a total maximum coverage of Fifty Thousand Dollars (\$50,000.00) when the listed amount is deemed inadequate. The cost of increased coverage shall be borne by the department, institution, agency, commission, authority or other body of state government requesting the increased coverage.

SECTION 6. AMENDATORY 85 O.S. 2001, Section 131, is amended to read as follows:

Section 131. There is hereby created and established a fund to be known as "CompSource Oklahoma", to be administered by a ~~Commissioner~~ President and Chief Executive Officer, without liability on the part of the state beyond the amount of said fund, for the purpose of insuring employers against liability for compensation under Sections 131 through 151 of this title, and for assuring for the persons entitled thereto compensation provided by the workers' compensation law, and for the further purpose of insuring persons, firms and corporations against loss, expense or liability by reason of bodily injury, death by accident, occupational disability, or occupational disease suffered by employees, for which the insured may be liable or have assumed liability. Said fund may further provide insurance for employers against liability incurred as the result of injuries sustained by employees engaged in employment subject to the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C., Section 901 et seq., or employees engaged in employment subject to Title IV of the Federal Coal Mine Health and Safety Act of 1969 as amended by the Black Lung Benefits Act of 1972, as enacted or as may be amended by the Congress of the United States.

(a) CompSource Oklahoma shall be a revolving fund and shall consist of all premiums received and paid into said fund for insurance issued, all property and securities acquired by and through the use of monies belonging to the fund and all interest earned upon monies belonging to the fund and deposited or invested as herein provided.

(b) Said fund shall be applicable to the payment of losses sustained on account of insurance and to the payment of expenses in the manner provided in Sections 131 through 151 of this title.

(c) Said fund shall be fairly competitive with other insurance carriers and it is the intent of the Legislature that said fund shall become neither more nor less than self-supporting.

(d) CompSource Oklahoma shall report to the Insurance Commissioner no later than the last day of February of each year the amount of premium taxes and fees for which it would be liable if it were operating as a private carrier.

(e) The official name of the fund which is known as "The State Insurance Fund" shall be designated in all future references as "CompSource Oklahoma". Any references in the Oklahoma Statutes to The State Insurance Fund shall be deemed references to CompSource Oklahoma.

SECTION 7. AMENDATORY 85 O.S. 2001, Section 131a, is amended to read as follows:

Section 131a. A. There is hereby created a Board to be known as the "Board of Managers of CompSource Oklahoma", which Board shall have supervision over the administration and operation of CompSource Oklahoma, and shall be composed of nine (9) members as follows:

1. The Director of State Finance or a designee;
2. The Lieutenant Governor or a designee;
3. The State Auditor and Inspector or a designee;
4. The Director of Central Purchasing of the Department of Central Services;
5. One member appointed by the Governor;
6. Two members appointed by the Speaker of the House of Representatives, one of whom shall be representative of employers; and
7. Two members appointed by the President Pro Tempore of the Senate, one of whom shall be representative of employees.

The appointed members of the Board shall serve at the pleasure of the appointing authority.

B. The members of the Board shall elect annually from their number a ~~Chairman~~ Chair and a Secretary. The Secretary shall keep true and complete records of all proceedings of the Board. The Board shall meet quarterly, and at all other times when a meeting is

called by the ~~Chairman~~ Chair, and at such meetings the Board may consider the condition of CompSource Oklahoma and quarterly shall make a detailed examination into the condition of its reserves and investments and at each meeting may examine all other matters relating to the administration of such fund. The time and place of the regular meetings and the manner in which special meetings may be called shall be set forth in the bylaws of the said Fund. Except as otherwise provided in this act or in the bylaws, all actions shall be taken by the affirmative vote of a majority of the Board members present at a meeting, except that no investment policy and no amendment of bylaws shall be valid unless authorized or ratified by the affirmative vote of at least four Board members.

C. Appointed members of the Board shall be reimbursed for expenses as provided in the State Travel Reimbursement Act. Said reimbursement, not to exceed thirty (30) days in any calendar year, shall be paid only when the Board is transacting official business. Any reimbursement in excess of thirty (30) days shall be approved by a majority of the Board. The Board shall have access to all records and books of account and shall have power to require the presence or appearance of any officer or employee of CompSource Oklahoma. All information obtained by the members of the Board shall be confidential unless disclosed by order of the Board.

D. No person or organization in a position to influence official action of members of the Board of Managers of CompSource Oklahoma, the ~~Commissioner~~ President and Chief Executive Officer, and the employees of CompSource Oklahoma shall furnish presents, gratuities, transportation, lodging, educational seminars, conferences, meetings, or similar functions to the Board of Managers of CompSource Oklahoma, the ~~Commissioner~~ President and Chief Executive Officer, and the employees of CompSource Oklahoma other than as provided by law and the rules of the Ethics Commission.

E. The official name of the Board of Managers which is known as the "Board of Managers of the State Insurance Fund" shall be designated in all future references as the "Board of Managers of CompSource Oklahoma". Any references in the Oklahoma Statutes to the Board of Managers of the State Insurance Fund shall be deemed references to the Board of Managers of CompSource Oklahoma.

SECTION 8. AMENDATORY 85 O.S. 2001, Section 131b, is amended to read as follows:

Section 131b. A. The Board of Managers of CompSource Oklahoma shall appoint a ~~Commissioner~~ President and Chief Executive Officer, who shall be executive manager of CompSource Oklahoma.

B. All references in the Oklahoma Statutes to the State Insurance Fund Commissioner or the Commissioner of the State Insurance Fund shall be deemed references to the ~~Commissioner of~~ CompSource Oklahoma President and Chief Executive Officer.

SECTION 9. AMENDATORY 85 O.S. 2001, Section 132, is amended to read as follows:

Section 132. The ~~State Insurance Fund Commissioner~~ CompSource Oklahoma President and Chief Executive Officer is hereby vested with full power, authority and jurisdiction over ~~the State Insurance Fund~~ CompSource Oklahoma. He or she shall perform any duties which are necessary or convenient in the exercise of any power, authority, or jurisdiction over the fund in the administration thereof, or in connection with the insurance business to be carried on by him or her under the provisions of Sections 131 through 151 of this title as fully and completely as a governing body of a private insurance carrier might or could do including the acquisition, operation and maintenance of an electronic data processing facility.

The Board of Managers of ~~the State Insurance Fund~~ CompSource Oklahoma shall have full power and authority to fix and determine the rates to be charged by ~~the State Insurance Fund~~ CompSource Oklahoma for insurance.

SECTION 10. AMENDATORY 85 O.S. 2001, Section 133, is amended to read as follows:

Section 133. The ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer shall have full power and authority to manage and conduct all business and affairs relating to ~~the State Insurance Fund~~ CompSource Oklahoma, all of which business and affairs shall be conducted under the name of ~~the State Insurance Fund~~ CompSource Oklahoma, and in that name and without any other name or title, the ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer may:

(1) Sue and be sued in all the courts of the state, in all actions arising out of any act, deed, matter or things made, omitted, entered into, done or suffered in connection with ~~the State Insurance Fund~~ CompSource Oklahoma, and administer, manage, or conduct all the business and affairs relating thereto.

(2) Make and enter into contracts of insurance as herein provided, and such other contracts or obligations relating to ~~the State Insurance Fund~~ CompSource Oklahoma, as are authorized or permitted under the provisions of this ~~act~~ title.

(3) Invest and reinvest the monies belonging to ~~the State Insurance Fund~~ CompSource Oklahoma as hereinafter provided.

(4) Conduct all business and affairs, relating to ~~the said State Insurance Fund~~ CompSource Oklahoma, whether herein specifically designated or in addition thereto.

(5) The ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer may delegate to any officer of ~~the State Insurance Fund~~ CompSource Oklahoma, under such rules and regulations, and subject to such conditions as he or she may from time to time prescribe, any of the powers, functions or duties conferred or imposed on the ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer under the provisions of this act in connection with ~~the State Insurance Fund~~ CompSource Oklahoma, the

administration, management and conduct of the business or affairs relating thereto, and the officer or officers to whom such delegation is made may exercise the power and functions and perform the duties delegated with the same force and effect as the ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer, but subject to his or her approval.

(6) The Board of Managers of ~~the State Insurance Fund~~ CompSource Oklahoma shall not, nor shall the ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer or any officer or employee of ~~the State Insurance Fund~~ CompSource Oklahoma be personally liable in his or her private capacity for or on account of any act performed or contract or other obligation entered into or undertaken in an official capacity in good faith and without intent to defraud, in connection with the administration, management or conduct of ~~the State Insurance Fund~~ CompSource Oklahoma, its business or other affairs relating thereto.

SECTION 11. AMENDATORY 85 O.S. 2001, Section 134, is amended to read as follows:

Section 134. A. In conducting the business and affairs of ~~the State Insurance Fund~~ CompSource Oklahoma, the ~~Commissioner of the said fund~~ CompSource Oklahoma President and Chief Executive Officer, or other officer to whom such power and authority may be delegated by the ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer, as provided by Section 133 of this title, shall have full power and authority:

1. To enter into contracts of insurance, insuring employers against liability for compensation, and insuring to employees and other persons entitled thereto compensation as provided by the Workers' Compensation Act, Section 1 et seq. of this title;

2. To decline to insure any risk in which the minimum requirements of the law with regard to construction, equipment and operation are not observed, or which is beyond the safe carrying of

~~the State Insurance Fund~~ CompSource Oklahoma, but shall not have power or authority, except as otherwise provided in this act to refuse to insure any compensation risk tendered with the premium therefor;

3. To enter into contracts of insurance insuring persons, firms and corporations against loss, expense or liability by reason of bodily injury, death by accident, occupational disability, or occupational disease suffered by employees for which the insured may be liable or have assumed liability;

4. To purchase reinsurance for any risk or any portion of any risk of ~~the State Insurance Fund~~ CompSource Oklahoma;

5. To inspect and audit, or cause to be inspected and audited the pay rolls of employers applying for insurance against liability for compensation;

6. To contract with physicians, surgeons and hospitals for medical and surgical treatment and the care and nursing of injured persons entitled to benefits from said fund;

7. To meet the reasonable expenses of conducting the business of ~~the State Insurance Fund~~ CompSource Oklahoma;

8. To produce a reasonable surplus to cover catastrophe hazard; and

9. To administer a program in compliance with Section 924.3 of Title 36 of the Oklahoma Statutes, whereby employers may appeal rating classification decisions which are disputed. ~~The State Insurance Fund~~ CompSource Oklahoma shall notify employers of the availability of the program.

B. ~~The State Insurance Fund~~ CompSource Oklahoma must be funded through actuarially sound rates and premiums charged to its policyholders.

C. ~~The State Insurance Fund~~ CompSource Oklahoma shall establish and use rates and rating plans to assure that it is self-funding while those rates are in effect.

D. No later than September 1 of each year, ~~the State Insurance Fund~~ CompSource Oklahoma shall obtain an independent actuarial certification of the results of its operations for prior years.

E. Any premium or assessments collected by ~~the State Insurance Fund~~ CompSource Oklahoma in excess of the amount necessary to fund its projected ultimate incurred losses and expenses and not paid to policyholders insured under ~~the State Insurance Fund~~ CompSource Oklahoma in conjunction with dividend programs shall be retained by ~~the State Insurance Fund~~ CompSource Oklahoma.

F. ~~State Insurance Fund~~ CompSource Oklahoma losses are the sole and exclusive responsibility of ~~the State Insurance Fund~~ CompSource Oklahoma, and payment for such losses must be funded in accordance with this section and must not come, directly or indirectly, from insurers or any guaranty association for such insurers, except for reinsurance purchased by ~~the State Insurance Fund~~ CompSource Oklahoma.

SECTION 12. AMENDATORY 85 O.S. 2001, Section 135, is amended to read as follows:

Section 135. A. All receipts of money, with the exception of investment income, shall be deposited in the ~~State Insurance Fund~~ CompSource Oklahoma fund in the State Treasury. The ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer, subject to the direction of the Board of Managers, shall have the responsibility for the management of the ~~State Insurance Fund~~ CompSource Oklahoma fund, and may transfer monies used for investment purposes from the ~~State Insurance Fund~~ CompSource Oklahoma fund in the State Treasury to the custodian bank or trust company of ~~the State Insurance Fund~~ CompSource Oklahoma.

B. 1. All benefits payable pursuant to the provisions of the bylaws of ~~the State Insurance Fund~~ CompSource Oklahoma, and refunds of premiums and overpayments, shall be paid from ~~the State Insurance Fund~~ CompSource Oklahoma upon warrants or vouchers signed by two

persons designated by the ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer.

2. Every check, draft, warrant, or other instrument drawn for the payment of temporary total disability benefits by ~~the State Insurance Fund~~ CompSource Oklahoma shall contain on its face in a contrasting color of ink the following:

WARNING: It is a felony to knowingly receive money under false pretenses by accepting temporary total disability benefits while working at the same or a similar job. If you are employed or receiving wages, you should consult ~~the State Insurance Fund~~ CompSource Oklahoma or if you are represented by an attorney you should consult your attorney BEFORE presenting this instrument to any other person for payment.

3. The ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer may transfer monies from the custodian bank or trust company of ~~the State Insurance Fund~~ CompSource Oklahoma to the ~~State Insurance Fund~~ CompSource Oklahoma fund in the State Treasury for the purposes specified in this subsection.

SECTION 13. AMENDATORY 85 O.S. 2001, Section 135.1, is amended to read as follows:

Section 135.1 There is hereby created a petty cash fund within ~~the State Insurance Fund~~ CompSource Oklahoma. Said petty cash fund shall be in such amounts as are determined to be necessary by the Director of State Finance and the ~~Commissioner of the State Insurance Fund~~ CompSource Oklahoma President and Chief Executive Officer. Petty cash funds may be expended for the payment of emergency purchases and bills. The said funds may be reimbursed by the Director of State Finance upon the filing of a claim with the proper receipts showing the disbursements therefrom, reimbursement to be made from the revolving fund. The Director of State Finance shall prescribe all forms, systems and procedures for administering the petty cash fund.

SECTION 14. AMENDATORY 85 O.S. 2001, Section 136, is amended to read as follows:

Section 136. A. The ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer shall appoint, with the approval of the Board of Managers of ~~the State Insurance Fund~~ CompSource Oklahoma, such assistants, accountants, claim adjusters, and other employees as may be necessary to conduct the business and carry out the provisions of Section 131 et seq. of this title, or to perform the duties imposed upon him by this act; provided, that in no event shall the salaries of such employees, together with all other expenses of said fund, exceed twenty percent (20%) of the earned premiums.

B. The chief attorney for the Board shall receive a salary equal to that paid to a judge of the Workers' Compensation Court.

SECTION 15. AMENDATORY 85 O.S. 2001, Section 137, is amended to read as follows:

Section 137. A. 1. Ten percent (10%) of the premiums collected from all persons, firms or corporations insured in ~~the State Insurance Fund~~ CompSource Oklahoma, shall be set aside by the ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer for the creation of surplus, until the surplus shall amount to the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00), and thereafter five percent (5%) of such premiums shall be set aside until such time as in the judgment of the State Insurance Board such surplus shall be sufficiently large to cover the catastrophe hazard, and all other unanticipated losses.

2. If the ratio of net premium-to-surplus exceeds 1:2 on July 1 of any year, the Board of Managers shall, within sixty (60) days, declare a dividend of sufficient size to reduce the ratio of net premium-to-surplus to no more than 1:2. The dividend may be declared in the form of cash, cash equivalents, negotiable instruments, or credits against past, present, or future premiums on

or before October 15 next following declaration of the dividend and shall be payable to policyholders having policies in force when the dividend is declared.

B. The Board of Managers is hereby vested with authority, in its discretion, to transfer funds from such surplus to other funds of ~~the State Insurance Fund~~ CompSource Oklahoma when deemed necessary or advisable; provided, that in no event shall such surplus be reduced to a sum less than One Hundred Fifty Thousand Dollars (\$150,000.00).

C. Reserves shall be established and maintained adequate to meet anticipated losses and to carry all claims and policies to maturity, which reserves shall be computed in accordance with rules adopted by the Board of Managers.

SECTION 16. AMENDATORY 85 O.S. 2001, Section 138, is amended to read as follows:

Section 138. A. The Board of Managers shall discharge their duties with respect to ~~the State Insurance Fund~~ CompSource Oklahoma solely in the interest of ~~the Fund~~ CompSource Oklahoma and:

1. For the exclusive purpose of:

- a. providing benefit to ~~the Fund~~ CompSource Oklahoma, and
- b. defraying reasonable expenses of administering ~~the State Insurance Fund~~ CompSource Oklahoma;

2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

3. By diversifying the investments of ~~the State Insurance Fund~~ CompSource Oklahoma so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4. In accordance with the laws, documents and instruments governing ~~the State Insurance Fund~~ CompSource Oklahoma.

B. The monies of ~~the State Insurance Fund~~ CompSource Oklahoma shall be invested only in assets eligible for the investment of funds of a domestic property and casualty insurance company as provided for in the Oklahoma Insurance Code, Title 36 of the Oklahoma Statutes. The term admitted assets shall mean the amount of the monies of ~~the State Insurance Fund~~ CompSource Oklahoma and the provisions relating to limitation of investments as a percentage of surplus as regards policyholders shall be inapplicable with respect to investment of the monies of ~~the State Insurance Fund~~ CompSource Oklahoma. The monies of ~~the State Insurance Fund~~ CompSource Oklahoma may be invested in certificates of indebtedness or such other enforceable evidences of obligation as may be utilized in the rights-of-way acquisitions by the Oklahoma Department of Transportation. The monies of ~~the State Insurance Fund~~ CompSource Oklahoma may also be invested in bonds secured by first mortgages, pass-through securities and insured participation certificates representing interests in first mortgages or insured mortgage pass-through certificates on one- to four-family residences located within this state. ~~The State Insurance Fund~~ CompSource Oklahoma may enter into agreements with the Multiple Injury Trust Fund to fulfill any payment obligation of the Multiple Injury Trust Fund, including all court orders for material increases and the accrued interest thereon, and all orders for interest on previously paid awards.

C. 1. The ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer, with the approval of the Board of Managers, is authorized to acquire any real estate deemed necessary for the immediate and reasonably anticipated future administrative office space needs of ~~the State Insurance Fund~~ CompSource Oklahoma. The ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer, with the approval of the Board of Managers, may sell, lease, rent or sublet any real estate holdings of ~~the State Insurance Fund~~ CompSource Oklahoma. Any revenues of such

transactions shall accrue to the surplus or reserve fund of ~~the State Insurance Fund~~ CompSource Oklahoma.

2. In any lease, rental, sublease or other agreement for the use or occupation of real estate holdings of ~~the State Insurance Fund~~ CompSource Oklahoma, no state agency may enter into an agreement which has a gross effective rental rate which is greater than the gross effective rental rate for which they can continue to occupy the premises which is currently rented at the time the agency proposes to move. For a period of two (2) years after the first use or occupation by the state agency, subsequent agreements, whether new agreements or continuations of a prior agreement, shall not contain a gross effective rental rate which is greater than that of the original agreement.

D. The Board of Managers may procure insurance indemnifying the members of ~~the State Insurance Fund~~ CompSource Oklahoma from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Board of Managers.

E. The Board of Managers may establish an investment committee. The investment committee shall be composed of not more than three (3) members of the Board of Managers appointed by the chairman of the Board of Managers. The committee shall make recommendations to the full Board on all matters related to the choice of custodians and managers of the assets of ~~the State Insurance Fund~~ CompSource Oklahoma, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the Board of Managers or ~~the Fund~~ CompSource Oklahoma in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the Board of Managers nor take effect without the approval of the Board of Managers as provided by law.

F. The Board of Managers shall retain qualified investment managers to provide for the investment of the monies of ~~the State~~

~~Insurance Fund~~ CompSource Oklahoma. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board of Managers. Subject to the overall investment guidelines set by the Board of Managers, the investment managers shall have full discretion in the management of those monies of ~~the State Insurance Fund~~ CompSource Oklahoma allocated to the investment managers. The Board of Managers shall manage those monies not specifically allocated to the investment managers. The monies of ~~the State Insurance Fund~~ CompSource Oklahoma allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

G. Funds and revenues for investment by the investment managers or the Board of Managers shall be placed with a custodian selected by the Board of Managers. The custodian shall be a bank or trust company offering master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board of Managers. In compliance with the investment policy guidelines of the Board of Managers, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of ~~the State Insurance Fund~~ CompSource Oklahoma are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of ~~the State Insurance Fund~~ CompSource Oklahoma as to the investment of the monies of the State Insurance Fund in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Board of

Managers for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

H. Prior to August 1 of each year, the Board of Managers shall develop and approve a written investment plan for ~~the State Insurance Fund~~ CompSource Oklahoma.

I. The ~~State Insurance Fund Commissioner~~ CompSource Oklahoma President and Chief Executive Officer shall compile a quarterly financial report of all the funds of ~~the State Insurance Fund~~ CompSource Oklahoma. The report shall be compiled and filed pursuant to uniform reporting standards prescribed by the State Insurance Commissioner for domestic property and casualty insurance companies. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The report shall contain a list of all investments made by ~~the State Insurance Fund~~ CompSource Oklahoma and a list of any commissions, fees or payments made for services regarding such investments for that reporting period. The report shall be distributed to the Governor, the Legislative Service Bureau and the Cash Management and Investment Oversight Commission.

J. ~~The State Insurance Fund~~ CompSource Oklahoma, on behalf of the Multiple Injury Trust Fund, may enter into an agreement with any reinsurer licensed to sell reinsurance by the State Insurance Commissioner selected pursuant to a competitive process administered by the Director of Central Purchasing in the Department of Central Services.

SECTION 17. AMENDATORY 85 O.S. 2001, Section 139, is amended to read as follows:

Section 139. The entire expenses of administering "~~The State Insurance Fund~~ CompSource Oklahoma" shall be paid out of such fund

upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. On or before the first day of June of each year, or as soon thereafter as possible, there shall be submitted to the Board of Managers of ~~the State Insurance Fund~~ CompSource Oklahoma, for approval, an estimated budget of expenses for the succeeding fiscal year. The ~~State Insurance Fund Commissioner~~ CompSource Oklahoma President and Chief Executive Officer may not expend from the funds belonging to ~~the State Insurance Fund~~ CompSource Oklahoma for purposes of administering any sum in excess of the amount specified in such budget for any item of expense therein set forth unless such expenditure is authorized by the Board of Managers of ~~the State Insurance Fund~~ CompSource Oklahoma. In no event shall the entire expenses of administration of ~~the State Insurance Fund~~ CompSource Oklahoma, as authorized for the entire year, exceed twenty percent (20%) of the earned premiums of the year. The Board of Managers may use present value discounting at a rate of four percent (4%) for computing reserves. The Board of Managers shall cause to be made and completed within ninety (90) days after the end of each calendar year, an audit of the books of account and financial records of the fund for such calendar year, such audit to be made by an independent certified public accountant, a licensed public accountant, a firm of certified public accountants, or an accounting firm or individual holding a permit to practice accounting in this state. The audit shall be filed with the Director of State Finance in accordance with the requirements set forth for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes.

~~The Fund~~ CompSource Oklahoma shall submit to the State Insurance Commissioner an annual financial statement in the same manner as a domestic insurance carrier. The Insurance Commissioner may audit ~~the State Insurance Fund~~ CompSource Oklahoma in the same manner as a domestic insurance company if an audit does not conflict with any

specific provision contained herein. The ~~State Insurance Fund Commissioner~~ CompSource Oklahoma President and Chief Executive Officer shall provide a copy of the annual financial statement to the Governor and ~~State Insurance Fund~~ CompSource Oklahoma Board of Managers.

SECTION 18. AMENDATORY 85 O.S. 2001, Section 141, is amended to read as follows:

Section 141. The ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer shall keep an account of the money paid in premiums by each classification of persons, firms, or corporations insured by ~~said State Insurance Fund~~ CompSource Oklahoma, and the expense of administering ~~the State Insurance Fund~~ CompSource Oklahoma and the disbursements on account of loss, expense or liability by reason of bodily injury, death by accident, occupational disability, or occupational disease suffered by employees, for which persons injured, ~~the State Insurance Fund~~ CompSource Oklahoma were liable or had assumed liability, including the setting up of reserves adequate to meet unanticipated and unexpected losses and to carry the claims to maturity; and, also, an account of the money received from such individual insured; and of the amount disbursed from "~~The State Insurance Fund~~ CompSource Oklahoma", for expenses, and on account of injuries, death by accident, sickness or disease, and disability of persons to whom such insured was liable or had assumed liability, including the reserves set up.

SECTION 19. AMENDATORY 85 O.S. 2001, Section 147, is amended to read as follows:

Section 147. A. Information acquired by the ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer or the officers or employees of ~~the State Insurance Fund~~ CompSource Oklahoma, from persons, firms or corporations insured ~~in said State Insurance Fund~~ by CompSource Oklahoma, or from employees of such

persons, firms or corporations pursuant to this article shall not be open to public inspection, and any officer or employee of the State of Oklahoma, who without authority of the Commissioner, or pursuant to the rules prescribed by the ~~State Insurance Fund Commissioner~~ CompSource Oklahoma President and Chief Executive Officer, or as otherwise required by law, shall disclose the same, shall be guilty of a misdemeanor.

B. For the purpose of implementing ~~Section 2~~ Section 142a of this act title, the ~~State Insurance Fund Commissioner~~ CompSource Oklahoma President and Chief Executive Officer shall provide to the Commissioner of Labor annually, upon request, a listing of the insureds of ~~the State Insurance Fund~~ CompSource Oklahoma with the name, address and nature of business or occupation of the insured.

SECTION 20. AMENDATORY 85 O.S. 2001, Section 148, is amended to read as follows:

Section 148. Every person, firm or corporation insuring in "~~The State Insurance Fund~~ CompSource Oklahoma" shall receive from ~~the State Insurance Fund~~ CompSource Oklahoma a contract or policy of insurance to be approved by the State Insurance Board.

Except as otherwise provided in this act all premiums shall be paid by every person, firm, or corporation who elects to insure with "~~The State Insurance Fund~~ CompSource Oklahoma" to the ~~Commissioner~~ CompSource Oklahoma President and Chief Executive Officer semiannually, or at such times as may be prescribed by general rule or regulation applicable to all insurers alike by the Insurance Commissioner. Receipts shall be given for such payment and the money shall be paid over to the credit of ~~the State Insurance Fund~~ CompSource Oklahoma.

SECTION 21. This act shall become effective November 1, 2002.

Passed the House of Representatives the 7th day of March, 2002.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2002.

Presiding Officer of the Senate